

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

TIMOTHY LYN VIER,)	
)	
Petitioner,)	
)	
vs.)	Case No. CIV-13-590-R
)	
ANITA TRAMMELL, Warden,)	
)	
Respondent.)	

REPORT AND RECOMMENDATION

Petitioner, a prisoner appearing pro se, has filed this habeas corpus action pursuant to 28 U. S. C. § 2254. The matter has been referred to the undersigned Magistrate Judge for initial proceedings consistent with 28 U.S.C. § 636(b)(1)(B). For the reasons set forth hereafter, the undersigned recommends that the petition be dismissed.

By order dated June 11, 2013, the undersigned advised Petitioner that in order for his habeas action to proceed, he must either pay the \$5.00 filing fee or be granted permission to proceed in forma pauperis. He was advised that unless he paid the fee or submitted a motion for leave to proceed in forma pauperis by July 1, 2013, his action would be subject to dismissal without prejudice to refile. LCvR 3.2.

A review of the Court file reveals that as of this date, Petitioner has failed to respond to this Court's order. He has not paid the filing fee, requested an

extension of time to do so, shown cause for his failure to pay, nor moved to proceed in forma pauperis. Thus, this action is subject to dismissal without prejudice to refiling pursuant to LCvR 3.2.

RECOMMENDATION

Therefore, based on Petitioner's failure to pay the full filing fee of \$5 or show good cause for his failure, it is the recommendation of the undersigned that his action be dismissed without prejudice. Petitioner is advised that any objections to this Report and Recommendation must be filed with the Clerk of this Court on or before the 29th day of July, 2013, in accordance with 28 U. S. C. § 636 and Federal Rule of Civil Procedure 72. Failure to make a timely objection to this Report and Recommendation waives the right to appellate review of both the factual findings and the legal issues decided herein. *Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991).

This Report and Recommendation disposes of all issues referred to the Magistrate Judge in the captioned matter.

ENTERED this 9th day of July, 2013.



SUZANNE MITCHELL
UNITED STATES MAGISTRATE JUDGE